

March 22, 2018



Talbot County Planning Commission
Final Decision Summary

Thursday, December 7, 2017 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

William Boicourt, Chairman
John N. Fischer, Jr., Vice Chairman
Michael Sullivan
Paul Spies
Phillip "Chip" Councell (absent)

Staff:

Mary Kay Verdery, Planning Officer
Miguel Salinas, Assistant Planning Officer
Brennan Tarleton, Planner I
Elisa Deflaux, Environmental Planner
Ray Clarke, County Engineer
Mike Mertaugh, Assistant County Engineer
Tony Kupersmith, County Attorney
Mary O'Donnell, Assistant County Attorney
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Boicourt called the meeting to order at 9:00 a.m. Commissioner Boicourt explained this is a recorded session and asked that anyone coming forward to testify please sign in. He explained only four (4) members of the Commission were present and under the Planning Commission By-Laws a tie vote is considered a negative vote. If any applicant chooses they can withdraw without penalty until the next month.

2. Decision Summary Review—November 4, 2017—The Commission noted the following corrections to the draft decision summary:

- a. Line 131-132, revised to read: "Commissioner Fischer asked in regards to Longwoods, if a request for a parcel to be zoned LI would be considered in the next phase of revisions, and if so, what is the next phase?"
- b. Line 167, the word should read "Commission" rather than "Commissioner".
- c. Line 335, change to read: "Commissioner Spies asked if funding was being sought to cover running the line for the extension of the wastewater treatment plant."
- d. Line 365, change to read: "Commissioner Fischer stated that the \$40,000-\$50,000 figure was the largest he had ever heard."
- e. Line 367, correct the word "worse" to "worst".
- f. Line 497, delete the sentence "When you throw out..." Correct to read: "The cost to individual homeowners makes him nervous." Correct to read: When you talk about a family to many people it is not a big deal..."

Commissioner Spies moved to approve the draft Planning Commission Decision Summary for November 4, 2017, as amended. Commissioner Sullivan seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. Closed Session—Commissioner Boicourt stated there was a closed session with three of the members with the County Council and the Minutes cannot be reviewed without all three of the Members being present.

5. New Business

- a. Administrative Variance—Gary & Mariann Radziewicz, #A240—26362
Westerly Road, Easton, Maryland 21601, (map 41, grid 14, parcel 3, zoned Rural Conservation), Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.

Mr. Tarleton presented the staff report for the two Administrative Variances:

1) alteration of the roof pitch to include 6 dormers; 3 across the rear and 3 across the front of the dwelling with the proposed total Gross Floor Area (GFA) expansion in the Shoreline Development Buffer to be approximately 101 sq. ft., and 2) the replacement of an existing deck made of pressure treated lumber with a new deck made of composite material in the exact same footprint of the deck that was constructed with the home in 1987. In addition to this replacement deck, a roofed area is proposed to be located ovetop of the deck that will create no new additional lot coverage or GFA.

Staff recommendations include:

1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed."
3. The applicant shall mitigate for the disturbance to the Shoreline Development Buffer with 3 times the disturbance to the buffer. A buffer management plan will need to be submitted in conjunction with the building permit application, if applicable.

Gary Radziewicz, applicant, appeared before the Commission with his agent, Elizabeth Fink of Fink, Whitten & Associates, LLC. Mrs. Fink stated that Mr. Radziewicz is looking for improvements to the existing dwelling so he can actually see out of the second story. The deck off the back is in poor condition so it will be replaced in the same footprint and a covered awning will be added because it is very sensitive to the sun on that side of the house.

Commissioner Sullivan moved to recommend the Planning Officer approve the Administrative Variance for Gary and Mariann Radziewicz, 26362 Westerly Road, Easton, Maryland, for the dormers and roof; Commissioner Fischer seconded the motion. The motion carried unanimously.

- b. Waiver—Safe Harbor #SP586—947 S. Talbot Street, St. Michaels, Maryland 21663 (map 201, parcel 1305, zoned General Commercial/Gateway Overlay District), Chris Waters, Davis, Bowen & Friedel, Inc., Agent.

Brennan Tarleton corrected the Agenda as only the Waivers will be heard. Mr. Tarleton presented the staff report for the requested Waivers for Safe Harbour Homes of the following code sections in order to construct a commercial modular home with handicap accessible features on the first floor and a single family residence on the second floor. The sections of the *Talbot County Code* that the applicants are requesting waivers are as follows:

1. §190-110 D.(1) – Buffer Yard.
2. §190-110 D (6) (a) – Parking in the buffer yard.
3. §190-110 D (6) (b) – Parking location.
4. §190-110 E (2) (a) – Minimum gateway front setback 40 feet.
5. §190-120 A. – Major Site Plan sidewalk.
6. §190-122 B. – Landscaped areas.
7. §190-122 C. – Screening.
8. §190-128 C. – Minimum required parking.

Additional waivers necessary per staff review:

1. §190-110 D (5) (a) – Pedestrian access/walkway.
2. §190-110 D (5) (b) – Walkway Easement.
3. §190-128 G. – Requirement of bicycle parking.
4. §190-128 H. – Required off-street loading area.

Staff Comments:

The subject parcel is somewhat small in size which does make it difficult to configure a building containing a professional service and a single family dwelling use in such a way as to be completely compliant with the *Talbot County Code*. However, staff believes there is an adequate portion of the existing building footprint onsite that is not being utilized in the proposed plan. While these circumstances do present hardships for this proposed plan, staff believes that the reconfiguration or resizing of the building shown on the current site plan would allow for some possible relief and reconfiguration that may result in the reduction of the number of waivers that would be necessary to allow this project to move forward. As currently shown on the plan, the proposed building does not seem to adequately use the buildable space allotted on this parcel. If the applicant is to

redesign the building/ parking to utilize as much of this space as possible then there may be an opportunity to eliminate some waivers.

He stated that the Planning Commission has the ability to grant approval for all, some or none of the Waivers that have been requested. Should the Planning Commission approve the Waiver requests, the Planning Department Staff will oversee compliance with the required steps to acquire necessary approvals along with any additional waivers required to obtain the site plan approval.

Staff recommendations include:

1. The applicant shall take all of the required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Major Site Plan and Landscaping Plan as spelled out in the *Talbot County Code*.

Chris Waters, Davis, Bowen and Friedel, Inc. and Dawn Lednum, owner of Safe Harbour Construction appeared before the Commission. Mr. Waters stated this is a small site and hard to meet all the requirements of the Code. The site is useable according to industry standards with parking spaces and width. The safety requirements take up quite a bit of space. He is proposing to take out the dumpster pad area as it is not required and replace with a retention area for stormwater. The parking lot is causing a lot of the issue for the size. Hopefully we have addressed each of the waivers requested. The closest proximity of the sidewalk to this location is 700 feet. There is a rails-to-trails walkway across the road that pedestrians could use past this site if required. There are six parking spaces required, but we could only get five.

Ms. Lednum stated she is building a model home for those aging in place. There will be one person on-site all the time. The home will be handicap accessible without looking like it with s one bedroom residence upstairs and the model home showroom portion downstairs.

After discussion among the Commission members, Staff and applicant, Mr. Tarleton stated the staff would recommend a continuation of this project and get some feedback from the Town.

Commissioner Fischer moved to table the application for Waivers for further discussions with Planning Staff and Town representatives. Commissioner Sullivan seconded the motion. The motion carried unanimously.

c. NextStep190—Module 3

Jennifer Huff reviewed the substantive changes.

Commissioner Boicourt asked for public comment.

190 Les Wagoner of Easton, had a noise question on whether he is correct in
191 understanding that currently there is going to be no change in the noise
192 restrictions in Chapter 190. Mr. Wagoner stated they will stay the same until it is
193 replaced and repealed by a standalone noise ordinance. Ms. O'Donnell said a task
194 force will be formed shortly to review this and however long it takes the task
195 force to move forward.

196
197 Monica Audi, Madison Ave, St. Michaels, commended staff and consultants who
198 have taken input of the public into consideration. She appreciates the
199 Commission's concern about the impact of various activities such as Short Term
200 Rentals. She felt the fifty foot setback is a good alternative for Short Term
201 Rentals, depending how close the properties really are. Where she lives, homes
202 are about 25 feet between structures, there is vegetation between structures but
203 you can still see each other. Ms. Audi stated she noticed there is a new rule which
204 says one off-street parking space per two guests must be provided. The current
205 application says parking must be off-street only. She is also disappointed not to
206 see anything about enforcement.

207
208 Mr. Meisick, of the Easton Club East, stated he understands there will be a stand-
209 alone noise ordinance. He asked what it is going to say. Ms. O'Donnell stated
210 there will be a task force appointed and the Office of Law will identify who will
211 be involved in the task force. There will be public meetings and the public can
212 make recommendations to the County Council about what a noise ordinance
213 should include. Mr. Meisick stated that to date the revisions still will allow an off-
214 road vehicle to be an exception to the noise standard, and he asks that off-road
215 vehicles be taken into consideration when the ordinance is reviewed.

216
217 Jack Thompson, Bruceville Road, Trappe, spoke on the issue of the redrawing of
218 certain village maps. Ms. Verdery explained that this meeting was not on the
219 maps. We would ask that he come forward at a later time regarding the maps.

220
221 Dwayne Hillman, Clubhouse Drive, Legislative Affairs Chairman, Mid-Shore
222 Board of Realtors, stated he sent a letter to each of the Commissioners. The Mid-
223 Shore Board of Realtors has come to express its support of a fair and reasonable
224 set of regulations that short term rentals can be governed. As Talbot County
225 grows in popularity and increasingly becomes a destination of choice for travelers
226 of all walks of life so too does the demand for unique and affordable
227 accommodations in the form of short term rentals. The County derives a very real
228 economic benefit from short term rentals. They stay longer and spend more
229 money in places they visit than hotel stays. That is the difference between living
230 like a local and just visiting. Burdening short term rental hosts or owners by
231 setting up complicated compliance regulations or limiting the short rental market
232 will unnecessarily drive many short term renters underground. The Mid-Shore
233 Board of Realtors are concerned that certain aspects of the short term rental
234 ordinance will adversely impact the ability for Talbot County to benefit from the
235 economic opportunities provided by short term rentals. He stated they wish to

make the following suggestions: they do not see a need to limit the use of accessory dwellings, these areas should be encouraged as they would allow the owners of the property to stay in the main home during the rental term. Why are you requiring off-street parking for guests when there is on-street parking in many areas? Owners could be required to notify guests during the application process. During the term limit should be used instead. Under the definitions we feel the four month limit is too long. A shorter term should be used to define a short term rental, such as 30 days. There are many occasions when a 2-4 month rental would be necessary such as out-of-town workers, those relocating, looking for more permanent housing, staying in a home during renovations, etc. These situations are used like long term rentals and they should be allowed to do this.

Steve Shimko, Madison Ave, St. Michaels, stated he lives next to a short term rental causing problems. The quality of life and ability to enjoy his property has been adversely affected. The short term property was found in non-compliance, fined and told to stop last August. The idea of a professional agent is a good idea. We were always nervous about calling, when we did call the agent the box was always full and we would not get a return call for a couple of days and the problem had been resolved by then. When you move into a neighborhood that has specific property rights or covenants you are voluntarily giving up rights. He stated for example he is not allowed to raise pigs and not allowed to have an automotive repair shop. There has also been testimony that granny needs to rent out her property on a short term basis to allow her to stay in her home. Most of the short term rentals he has seen do not fall into this category. His neighbor has a \$1M plus house in Severna Park and sent all of his kids to Landon School in Montgomery County. The real estate industry has mentioned how many people come to Talbot County and what the economic benefits would be to allow people to say in short term benefit. He stated that is a fallacious argument because you are moving somebody from a St. Michaels Motor Inn into a short term rental instead of a hotel or bed and breakfast. Other counties have implemented short term rentals but in many of these places the short term rentals have restricted the properties to the primary residence and did not allow second homes or investment properties. One final point: in some of the past testimonies some people have advocated for short term rentals, however they won't allow them in their own neighborhood.

Linda Youngblood, Bantree Road, support for individual homeowners. The property association has covenants against short term rentals and feel they should be respected in deciding whether to grant a license to short term rental.

Jeffrey Huvelle, Edgeville Road, Royal Oak, stated the proposed revisions are all helpful and steps in the right directions, particularly the clarification of the short term rentals. He had two observations about further steps. First, the provision that all advertisements include the license number; it would also be helpful if the occupancy was stated in the advertisement and lease agreement. Secondly, the proposal to limit rentals to once every seven days is a good step, but ought to be a

282 little more aggressive. If you rent a Friday and Saturday can you rent the
283 following week or not? If you recognize the short term rentals are causing
284 problems for neighbors, the neighbors would have some quiet weekends. He
285 applauds the efforts to make the regulations and agrees with Mr. Sullivan that it
286 would be helpful to make sure people comply with the regulations.
287

288 Carl Doll, Edgeview Road, Royal Oak, commented on the audio system in the
289 hearing room, stated it was hard to hear when some of the Commissioners spoke.
290 He applauded the efforts of the Commission and Staff. This is a complicated
291 process and it has gone very well. He has heard that there are about 133 short
292 term rentals and there have been very few complaints. Mr. Doll stated he finds
293 that believable because those people are the ones who find it comfortable to
294 comply with the law. His concern is with those renters who are not in compliance.
295 It is easy to find 400-500 short term rentals in Talbot County, and that does not
296 include the rolodex files of the Realtor Board. He stated the only source he has is
297 to go on the internet, and he thinks that is what the compliance people have to do.
298 In terms of the people who are not inclined to comply, requiring the license
299 number on the advertisement is excellent. The current system is not effective in
300 motivating owners to register. Mr. Doll stated he knows of one example where the
301 owner has been operating for two years and does not have a permit, though now
302 they are being reviewed. What is the penalty when they finally get a permit? All
303 that back revenue is lost, the sales tax to the state, the tax to the county. It seems
304 some attempt should be made, through penalties or required payments, to make up
305 for what they did not pay while they were operating illegally. He understands they
306 will probably plead they did not know. Mr. Doll stated the 15 day notice
307 requirement needs to be tightened up. The date that was used was the date the
308 application was filled out. The date of the postmark was seven days later, so most
309 of the 15 days evaporated. The date of the postmark would be the best to enforce.
310 If a hearing is required he suggests the same notice in the same manner as when
311 the application first submitted. It is important that the people who are affected are
312 notified of the hearing.
313

314 Leslie Steen, 21740 Camper Circle, Tilghman, wanted to discuss the issue of
315 restaurants in hotels. In Module 3 the special exception requirement for a
316 restaurant has been changed to a permitted use in Village Mixed. Generally she
317 doesn't have a problem except there is an abundance of restaurants, marinas, and
318 a yacht club that all can have music outdoors. The only one that is restricted is the
319 yacht club. We have six, maybe seven venues that could have outdoor music on
320 the water. We are the only village that could have outdoor music. She thinks what
321 they have for yacht clubs has some good solutions. They are a small village and
322 they all live very close together. They have small lots, love diversity for
323 commercial and residential. They want commercial to be successful. Years ago
324 there was a court order on one of the hotels limiting when they could have music.
325 Taking restaurants away from special exception takes away their voice in what
326 happens at that hotel. A 200 foot setback is nothing when every weekend night

327 until 1 in the morning will cause you to lose residents. You will lose property
328 value when that happens. We want to maintain a balance.

329
330 Holly Fine, Eagle Drive, thanked everyone who worked so hard to keep the
331 community vibrant and safe. She is here about short term rentals. Ms. Fine thinks
332 we are going to have to start thinking about the future. With the new tax bill
333 second homes will not be able to take taxes off. That will change the nature of
334 your community. It will draw more short term rentals to the town because people
335 will be buying these properties for businesses. Monitoring is a huge problem for
336 the neighbors. There is a 10-12 person limit, but the neighbors cannot figure out
337 how many people are in the house. When they try to take pictures they get into a
338 conflict. A few weeks ago they had a 12-14 cars at a short term rental. They think
339 it is being rented for a day retreat. The pictures were sent to the County. She does
340 not think that the neighbors should have to call the property manager. It causes a
341 terrible rift in the neighborhood. The real estate gentleman says there is evidence
342 and studies to show there is economic benefit from these short term rentals. She
343 would like to see these studies. These people pull up with coolers in their trunks,
344 they don't patronize the restaurants. Ms. Fine stated she received her certified
345 letter and it says respond within two weeks from the date of the letter.

346
347 Debra Brookhouser, Camper Circle, Tilghman, stated several years ago they had
348 trouble from outdoor music. Noise carries strongly from the narrows. Her request
349 is that they would be protected from the noise of the restaurants and hotels on the
350 narrows.

351
352 d. MXW Zoning – 5 Year Hold

353
354 Mr. Salinas presented the staff report regarding the 5-year hold on the zoning
355 change for the Easton Point Annexation. The Town of Easton (Town) has
356 formally requested the County consider waiving the 5-Year zoning restriction for
357 the recently annexed Easton Point parcels into the Town. Pre-annexation County
358 zoning for these properties is Limited Industrial (LI). At the County Council's
359 meeting held on Tuesday, November 28, 2017, the Council introduced Resolution
360 255 concerning the proposed rezoning and request for the waiver of the 5-year
361 hold.

362
363 The Town anticipates mapping a new zoning district, the Mixed-Use Waterfront
364 (MXW) District, on the aforementioned properties in order to implement the Port
365 Street Small Area Plan (Small Area Plan). The MXW District is currently in draft
366 form and the Town Council held a November 20, 2017 public hearing on the
367 zoning district, the Small Area Plan and related Town Comprehensive Plan
368 Amendments.

369
370 Staff recommends that the Planning Commission determine that each of the 2
371 separate preconditions for exercise of the 5-year hold exists, namely that the
372 Town's proposed MXW District allows land uses that are substantially different

373 from the existing County LI zoning and permits development intensity greater
374 than 50% of the existing County development intensity.
375

376 Lynn Thomas with the Town of Easton, worked on this project for some time. He
377 believes it is a more appropriate and vast improvement from the general
378 commercial zoning on the parcels located in that district. He stated they have
379 hopefully tailored something more specific, they recognize it is not perfect but it
380 is a great start. He stated they are committed to what they have labeled Phase II of
381 the MXW but right now They will take another look at the legislation to see what
382 they might have missed and it will continue to be a work in progress.
383

384 Ms. Sharon Van Emburgh with the Town of Easton stated they appreciate the
385 letter from the Commission. The one issue which has not been addressed yet is
386 the suggestion to create an additional sub-district at the waterfront area. This is
387 something they intend to add to the list to discuss as they move forward. Come
388 January a developer could develop under the GC everywhere. We feel the uses in
389 MXW are more appropriate in this area.
390

391 Mr. Donald Richardson, Town of Easton, thanked the group for their input and
392 their participation in the development of the document. He hopes they will put
393 forward a positive recommendation. The height limitation matches up to what is
394 currently in the County LI zoning at 40 feet. There are also architectural
395 guidelines in place.
396

397 Zach Smith, Armistead, Lee, Rust & Wright, Bay Street, Easton. He stated there
398 is a lot of discussion about the overall redevelopment of Easton Point. That is a
399 subject that is important to this Commission and the Commission's involvement
400 is appropriate. But the question before the Commission this morning is much
401 narrower. This handful of properties has already been annexed into the town and
402 has already been zoned GC. But for a provision of the annexation agreement they
403 could be annexed today as GC. Come January development can move forward.
404 The question for this body and for the County is whether that development is
405 going to be regulated by the general commercial standards or by the MXW
406 standards. He stated he feels it is more appropriate by the MXW than the GC
407 standards. More importantly GC is not tailored to accomplish the goals and
408 objectives of the Port Street Master Plan. When additional properties are annexed
409 in there will be an opportunity to consider the MXW and what it will permit on
410 those additional properties.
411

412 Bruce Armistead, 114 Bay Street, Easton, Maryland, Armistead, Lee, Rust &
413 Wright, stated he does not see the dilemma. If developed under the MXW the
414 drawings are simply an interpretation of what could be there in the future.
415

416 Tom Alspach, Bay Street, Easton. The Town and Commission should not be in
417 the dilemma they are in now. When the proposal to annex these properties first
418 surfaced he offered a letter to the Town which essentially said do not annex this

property until you have an agreed plan for how this property will be developed and that has been reduced into a binding annexation agreement that will resolve all of these issues up front before the property is annexed. The decision was made not to go down that road, so here we are. Whenever an annexation proposal is on the table the Town has an opportunity to determine what may be permitted on that property and how it will be developed in great detail. That way you avoid all this after the fact back and forth.

Commissioner Boicourt proposed the Commission write a letter to the County Council explaining the issues the Commission has with the zoning and why.

Commissioner Spies moved to recommend the County Council approve the Waiver of the 5-Year Hold on the Easton Point property. Commissioner Sullivan seconded the motion. The Planning Commission would also include a letter to the County Council with their concerns. The motion carried unanimously.

Adjourned to break at 12:57 p.m.

Readjournd to meeting at 1:37 p.m.

e. Proposed Amendments to Resolution 250

Mr. Clarke presented the proposed amendments to Resolution 250. He stated there are approximately 540 lots, with the abutting issue there are roughly an additional 60 lots to be brought in. Working with the County Council, an Amendment to Resolution 250 was crafted to bring in the 60 Tier IV lots. In addition the County Council introduced Amendment No. 2 which has the same premise but the 60 lot property owners would have to petition to have the Comprehensive Water and Sewer Plan amended to have the lots brought in and the sewer line would have to be brought within 200 feet of their property line. The third Amendment adds a Whereas:

Whereas, it is the intention of the Council that the inclusion of Tier IV parcels in this new sewer service area will not increase the amount of development or density allowed by law; and

The Public Works Advisory Board met yesterday about Bill 1378. The Board felt they needed more time for review of that Bill. The Board will look at that as part of their January meeting. The Public Works Advisory Board also looked at the Amendments and difficulties facing the sanitary district. Their first motion was on the third amendment because it had an impact on Amendments 1 and 2. The Public Works Advisory Board made a motion to adopt the Third Amendment. The Board then reviewed Amendment No. 1 and recommended to the County Council that they adopt Amendment No. 1 and passed it 3-0.

Mr. Clarke stated there has been an ongoing history of trying to get sewer down to these lots in Bozman and Neavitt. It has been identified in the Comprehensive Water and Sewer Plan since 1990 of the need for sewer to these areas, especially the villages with these small lots. We have to have a financial plan presented to the State of Maryland by the end of January. As part of that financial plan new lots would be required to pay fifty percent of the debt. With that we had roughly about eight hundred lots being planned in the Town of St. Michaels: the Miles Point project being planned at 400 lots which went to 250 then to 1; the Hattans Gardens project originally planned at 400, down to 250 and resulted in 16 lots. Mr. Clarke stated their financial plan went from 800 lots down to 17 with some minor development that occurred in the Royal Oak area. Since 2008 they have been operating with thin margins, and in some areas in the red. He stated over the last year they connected Martingham to the system and the funding of that project assisted the overall balance sheet with the sanitary district. Currently today they are \$314,000 in the deficient from revenue they are not receiving from new connections.

Mr. Clarke stated his recommendation for Amendment 1 of Resolution 250 would be the Planning Commission find it favorable and consistent with the Comprehensive Plan.

Commissioner Boicourt asked what the Public Works Advisory Board's recommendation was on Amendment 2. Mr. Clarke stated the Board voted for Amendment 1 and did not take any action on Amendment 2. Amendment 3 was voted for 3-0. Commissioner Boicourt stated Ms. Verdery had a series of rules of how we could allow Tier IV to come into the Comprehensive Plan. Where are those rules? Mr. Clarke stated those rules are not in the Amendments. Mr. Kupersmith explained those items were originally to be in Resolution 250 but are now Bill 1378.

Mr. Salinas stated he believed it was Ms. Verdery's intention to recommend postponing any decision on the Amendments until you have had time to review Bill 1378 and then make a recommendation on the entire package.

Commissioner Sullivan stated a different way to do this is to create a Tier IV-1 to identify and define the individual lots attached to failing septic. We could make that part of Bill 1378 and make that part of the Comprehensive Plan.

Commissioner Fischer stated that would require an amendment to the Comprehensive Plan. Mr. Kupersmith reiterated that a change of the type that would add a new category would require an amendment to the Comprehensive Plan.

Mr. Clarke wanted to point out that when they moved forward with the funding in January with the Maryland Department of Environment, they would then move forward with the design. They will not have sewer to the properties as of July 1,

2019. It will take some time. It could take as long as two years to get sewer out to the homes.

Commissioner Boicourt asked for public comment.

Mr. Tom Alspach stated what we are engaged in here is planning by grant opportunity. This is being driven solely by an opportunity to qualify for a grant. It is not something that arose because someone is displeased with the Comprehensive Plan we spent three years developing. It just appears there is a way to extract more money from the State. We are looking at ultimately changing the Comprehensive Plan to accommodate more dense and prolific growth. Before, we had a plan for where that was going to be and where it was going to occur. Going all the way back to the Hughes administration the Commission took years, and the County Council took another year, almost two, before the plan was finalized. We are going to undo a very critical and central part of that plan without much public input over what we had over the last four years. We are going to have one public hearing on December 19th. No one knows what that's about. The way the public was engaged over the last four years, now it is going to be very difficult to get them engaged and have one three minute shot to do this. Why is that important? Not just because you are doing, or undoing four years of work in the matter of four weeks, but because of the implications of what is at risk here. The focus and all of the numbers are focused on the Bozman/Neavitt peninsula. Mr. Alspach stated he is one hundred percent in favor of extending sewer to Bozman/Neavitt. The issue is the spill over. The rules that come about as a result of this amendment to the Comprehensive Plan will apply Countywide; they will apply to the peninsula where Tilghman is, where Royal Oak is, and Bellevue. We don't have any numbers for how much potential density we are creating just in the Bozman Neavitt area. What's more troubling is he hears County Council members saying there will be no increase in density, there will be the same lots before and after. When the sewer comes there will be an increase in density relative to what the density would be in these rural areas absent sewer. Granting someone the right to connect their sewer to a lot that will not perk might sound fine. It is also giving someone a windfall. Can you give someone transferable rights when what they have to transfer is within a swamp. They have unbuildable lots so you can't transfer them elsewhere; circumstances they have now versus what will it be if all of the lots that will not perk are brought onto the sewer. The same analysis needs to be done on the Tilghman and Royal Oak peninsulas, taking into account the subdivision potential of those areas. That has to be compared to what this current Region II Sewer Plan can accommodate. The proposal on the table that he feels is driving this change to Amendment 250 is to III-B and III-C. Then we said let's extend it to Tier IV also. Now it's not consistent with the Comprehensive Plan, so let's amend the Comprehensive Plan so it is consistent with the Comprehensive Plan. There is another statute that says we have to hook up the abutting lots. Environmental Article 659 says: "anyone, even a non-abutting owner can request to be connected and you have to connect them." This was addressed in the Attorney General's Opinion. When you create

all of these new sewer service areas going down to Tilghman, Bellevue and Neavitt, including Tier IV lots that are not abutting, you are still going to have to connect them under that statute. To exacerbate that problem it was cited in the Federal Court decisions this summer, the Attorney General Opinion says you can delay connecting all these new lots if you don't have capacity, temporarily, with a moratorium. But the implication is you ultimately have to find sewer for them. Are we setting ourselves up for an obligation to expand the Region II Plant to accommodate new lots to be connected to sewer and setting up the rules for how they are going to be connected without knowing how many lots we are going to be talking about. The homework has not been done countywide as it should be. As important as sewer service is, the major part the comprehensive plan lays out is preserving the rural character of our County. Without knowing how many buildable lots there are you don't know how big a threat there is because we haven't done the analysis. Mr. Alspach stated he would conclude by saying we are doing this backwards. He stated there should be data on all of the questions he raised, and there are a lot more. There should be a lot of planning sessions that are work sessions the public can come to and discuss these issues. You are talking about undoing a portion of work that took 3-4 years that had major engagement of the public. That is not right. This is a matter of public policy. He would urge us not to take any action on anything. If you are going to communicate anything to the County Council, let's slow down here and figure out what the whole comprehensive impact is countywide. Figure it out first and then act.

Mr. Kupersmith wanted to address the point about Section 9-659 that Mr. Alspach alluded to, from the Attorney General. It states: "A sanitary commission must also provide a property owner whose property does not abut a sewer line with a connection to the sewage system at the property owner's request." This obligation extends only to properties within the defined sewer service area. If you are outside the sewer service area and make a request you are not entitled to a sewer service request. We do have the Carroll's Market policy that we utilize in certain areas. That extension is at the County's discretion, the system has to be failing, you have to have exhausted all other possibilities, and finally if nothing else works the County can make a decision based on those criteria.

Mr. Alspach stated he agrees one hundred percent with what Mr. Kupersmith said. But you are creating a set of regulatory actions and amendment in the Comprehensive Plan that will apply to a large group of areas that we have not even looked at yet and we ought to know where the sewer service area is going to be in the other parts of the County. If there are non-abutting lots in these other areas, we have to take into account the total demand that will make on sewer. Mr. Alspach stated in Section 9-659 the next paragraph after what Mr. Kupersmith read states: "If sanitary commission lacks sufficient treatment capacity at the time the newer sewer line was established it can declare a moratorium or impose restrictions or delay." He stated, which implies to him you can delay, but you still have to come up with it because you put them in the sewer service area. We would like to know what the sewer service area is going to be and what the rural

character of the road that runs from Claiborne to Tilghman and the road that runs from Tilghman to Bellevue.

Joan Whitmore, lives in Neavitt, agent for Merritt Kline property. She stated that several months ago she began to investigate the number of permits given to developments that were never developed. There is no market for development on Neavitt Road. The Hatton Road development is down to 16 or 12 now; there is no market for those properties. The idea that giving Bozman or Neavitt sewer access will open a can of worms is without merit. There is already sewer in Royal Oak and Tunis Mills. Did that open up sewer to Neavitt? No. They have many failing septic systems. She stated she was walking in her neighborhood recently and a neighbor was taking down trees to put in a new septic because he cannot wait a few years to put in sewer. Ms. Whitmore stated she will send the Commissioners the statistics.

Mark McInturff, resident of Neavitt, stated he was blown away by the previous speaker. He is with a group of citizens of Neavitt. This is not a top down effort. This is a grass roots movement he started by circulating a petition. The reason they care is that the average life expectancy of any septic system is about 15-20 years. Most of the lots in Neavitt do not have enough land to make a new system. As these systems fail, and he stated they are losing about 5-6 a year, if you listen to when Mr. Clark stated they will come on line, they will lose 26-27 septic in that time period. We will be a ghost town by the time that system comes around. We need to be treated individually. You need to service our community. We do not need to be part of some complicated master plan. We as a group care very deeply that you pass Resolution 250.

Mr. Alspach states he apologizes if his comments are not taken as attended. He wants sewer to come to Neavitt. He approves of Resolution 250 with no amendments. He does not approve of expanding beyond that.

Dan Cowee, Nelson Point Road, Neavitt. We all have been talking about the sewer. What we really need to talk about is the environment. Part of the sewer program is to alleviate causing problems to the environment, not just whether or not we have ten more houses on the road. Over time, especially on small lots, there are not going to be replacement fields because there is no place for them. He hopes the Commission keeps the environment foremost in their mind. In other areas of the state there has been a lot of litigation that has come about because sewer has gone past a person's front door and they could not hook up.

Commissioner Spies asked for clarification that the subsidy funds go to helping people connect to the sewer line.

Mr. Clarke stated that the MDE wants to know how many units they were talking about. The State would allocate \$20,000 to assist that property owner in getting sewer from the road to their property. Commissioner Spies stated his concern is

647 that we should be chasing the money. We are talking about running a sewer at
648 \$20,000-\$40,000 a hook up. For us as a Board to sit here and not make valiant
649 effort to try to get that money to make that a financial reality is more of a problem
650 for me than figuring out how to get this done in time. He is concerned about
651 getting the money for someone who \$20,000 is a huge burden for them. Mr. Spies
652 stated he wants to work hard to make sure they do it the right way. It is a
653 necessity for the environment and for the people who can't afford it.
654

655 Mr. Clarke stated when they started this process they were talking roughly 822
656 lots in the target area. Resolution 250 amounts to about 540 lots. The Amendment
657 No. 1 would add another 60 lots. In an effort to address the potential future legal
658 issues we have looked at what the number of vacant lots are. As part of the
659 application MDE will have him walk through those numbers. They are going to
660 want to know the numbers of potential new lot creation. Ultimately they are
661 looking at the RC zoning which is 1 per 20. He does not think there will be alot in
662 the RR, which are typically under 10 acres, possibly 4. He spoke with Alan Girard
663 about a nutrient load of 484 new development acres, he does not know how he
664 came up with that. They still found the total nitrogen reduction was near 8,000
665 pounds. There are things that could happen between now and when we get the
666 funding. There are a lot of ways to address the concerns of the Planning
667 Commission, the Planning Office and the citizens. Mr. Clarke said the citizens
668 have made some very valid points about property values and the impact of not
669 having sewer on those properties and their ability to move forward.
670

671 Bill Kennedy, Cabin Cove Road, Sherwood, stated there are a lot of people in
672 Sherwood watching what is happening in Bozman and Neavitt and they feel it is a
673 mirror for what could happen in Sherwood and they are concerned. They are
674 really concerned as to what could happen with opening up large parcels as a
675 couple of large parcels were sold to development companies in Sherwood.
676

677 Commissioner Fischer stated that the importance of the environment is a
678 commonly held view and it is certainly agreed that the idea of diminishing the
679 number of septic fields is a no brainer. We are going through our zoning code
680 now and we do not know how these properties are going to be zoned. We worked
681 a long time on the Comprehensive Plan. There has been a great deal of effort in
682 attempting to bring sewer down to Sherwood, Neavitt and Claiborne. The work
683 that was done in the Comprehensive Plan was how are we going to get sewer
684 down to the villages without picking up all the properties along the way, without
685 exposing the whole road to development, and yet here we are. The idea that here
686 in the last six weeks we are going to assume that risk without thorough analysis.
687 The question is not if we are going to take sewer to Bozman and Neavitt, but
688 when. The issue of whether we are going to provide funding to the homeowner is
689 whether the funding will be this year or next. If we had the basic Resolution 250
690 we would all sign off on that. We can't do that so we have to make some
691 adjustments.
692

Commissioner Fischer stated there is an environmental benefit to the sewer. But there is an accompanying risk to rural character and he values both.

Commissioner Sullivan stated he recognizes we could reach down these various peninsulas and through designated special sewer service areas we could encapsulate the areas we want and exclude everything else. Now he is hearing that may not be true. He has always been hoping what you could do, if you have a lot that today does not perk and sewer runs right in front of you, sorry not buildable does not perk now, you don't have a buildable lot. If that is not true you are opening up a lot. You could have 200 other people doing the same thing that were not there a month ago.

Commissioner Boicourt stated that the lack of establishment of density in the villages means that there is an uncertainty of making these assessments so that knowing the estimates of what the growth impact of these things are. The faster we get that establishment the better. Without that we are in a bit of a conundrum.

Commissioner Fischer stated we can deal with Amendment 3, we cannot deal with Amendment 2.

Commissioner Boicourt stated that we can wait for all.

Ms. Verdery stated we could wait for all four until the next meeting since the County Council will have had their public hearing on the subject again prior to that time.

Commissioner Boicourt said it would be cleaner if we take no action until then.

Commissioner Fischer asked Ms. Verdery to clarify the sequence.

Ms. Verdery stated there is a timeline in the Commission package. On December 19th at 6:00 p.m. there is a public hearing on Bill 1378. On January 3rd there is a Planning Commission meeting, where you could then make a recommendation on Bill 1378 and amendments if no recommendation is made today. The Public Works Advisory Board also meets that afternoon and they will make recommendations. On Tuesday, January 9th Resolution 250 Amendments will be heard by the County Council. On Tuesday January 23rd Resolution 250 amendments as well as Bill 1378 will be heard by the County Council.

Commissioner Fischer moved to postpone the vote on the Amendments to Resolution 250; Commissioner Sullivan seconded the motion. The motion carried unanimously.

6. Discussions Items

a. RDC Harbourtowne Temporary Use Certificate

739 Ms. Verdery stated that Mr. Smith, as agent for RDC Harbourtowne, has
740 requested a temporary use certificate to relocate certain golf related facilities into
741 the existing structure that is across from where they want to build the permanent
742 amenities. It is going to be a pro shop, office space for staff, locker rooms and the
743 golf cart storage areas within that main hotel/restaurant structure. They are
744 requesting a temporary use certificate. Under the Talbot Code Section 190-100 for
745 a temporary use we cannot authorize that for a period greater than 90 days. It also
746 allows the Planning Officer the opportunity to bring this before the Planning
747 Commission. Given the history with the project and what is going on with the site,
748 Ms. Verdery stated she thought it best to bring it before the Commission. Should
749 we grant this certificate it should be limited to 90 days, but the applicant can come
750 and ask for an extension of that time period, anticipating the project will take one
751 year. The applicant will need to obtain building and other permits. They will also
752 need to ensure ingress and egress of the golf carts is in a single point that does not
753 increase the lot coverage The site is currently exceeding lot coverage, so we do
754 not want additional pads or improvements which will create lot coverage. No
755 exterior renovations, improvements or additional lot coverage is authorized or
756 associated with this temporary use certificate.
757

758
759 Ms. Verdery stated Staff is soliciting the Commission's comments and
760 recommendations.
761

762 Zach Smith and Bruce Armistead, Lee, Rust & Wright, and Bill Stagg, Lane
763 Engineering, LLC appeared before the Commission. The Harbourtowne Golf
764 Course is progressing nicely and is set to open this spring. Unfortunately, the
765 facilities needed to support the golf course are not ready and will not be done in
766 time for the opening. And we need those facilities in order to operate the golf
767 course. We need the pro shop, locker room facilities and we need a place to store
768 the golf carts. The initial concept was to look at some trailer type facilities.
769 Placing them on the golf course site in the area of the former club house site is
770 problematic because we hope to move on to construction there very soon. Putting
771 those temporary facilities in other places create lot coverage and other issues. The
772 hotel itself is closed now and that created an opportunity. Nothing would change
773 on the exterior of building or the exterior of the site. On the interior there would
774 be reconfigurations to allow for those temporary golf facilities to allow for locker
775 rooms, pro shop, golf pro offices and golf simulators (places where people can
776 practice their golf swing). There will also be golf cart storage inside the building.
777 The owner purchased some very nice, state of the art golf carts. It is proposed to
778 bring the golf carts in and out of the front door, take them around the former
779 banquet area to the storage area. This is not an optimal solution and not a long
780 term solution, but will get golf course up and running.
781

782 Commissioner Boicourt asked who would be driving the golf carts in the building,
783 in and out the doors.
784

Mr. Smith stated it would be golf course personnel who would bring them out in the morning and bring them back in the evening. They would not come and go during the day. They would bring them out in the morning, stage them in the parking lot and then bring them back in the evening.

Commissioner Boicourt asked if the schedule Ms. Verdery gave would work for them. Mr. Smith stated the 90 days would not be enough, but because the Ordinance allows for extensions, if they come back and ask for reasonable extensions that she would be willing to consider and hopefully approve those. He stated they hope for a year to get everything done. But they would begin to transition over as the other buildings come on line.

Mr. Armistead stated when you view the temporary uses one of the things you consider is the adverse impact. There is a hotel which has 110 rooms. There is parking which creates no additional impact, no sewer issues, in a nutshell uses which existed anyway. Therefore they do not anticipate any adverse impact.

Commissioner Fischer stated he was surprised an upscale golf course would have no nineteenth hole and drive a golf cart through the lobby. I am sure you have thought this through and decided it is better to get the golf course going.

Mr. Armistead stated everyone is anxious to have the course open sooner rather than later. Rather than to delay the opening it is a temporary arrangement, one we hope will be satisfactory. Mr. Smith said it is not an optimal solution, but it is a solution.

Ms. Verdery clarified one additional condition; the building permit to convert this space to the uses they are proposing should be applied for within the first 90 day period.

Mr. Armistead stated the architects and engineers are still at work on the plans and it is possible some of these things might not be feasible, but they do understand it has to go through the permit process. Mr. Smith stated they hope to have site plan approval for the amenity area by the end of December or early January. He stated it was their intention to move forward with the building permit for the golf cart storage building. But he is not sure they would have plans for the pro shop. He hopes if they make a good faith effort and move forward with a substantial part of it, that will be sufficient.

Commissioner Boicourt stated he was cool with it.

7. Staff Matters

- a. Ms. Verdery stated the County Council introduced Bill 1376 which was the bill to amend the village boundaries. As they were going through the process with County Council they discovered a drafting error. The plats were not actually at a

831 resolution to allow you to see the full extent to see the Tax Map. The top map on
832 the left hand side of the parcel is cut off. In the full extent, Tax Map 40 goes all
833 the way over into the water. The map as printed was not out at the full extent as it
834 should have been. Bill 1376 incorporates both these printed maps as well as a
835 digital map. The digital map is County wide so there are no areas that aren't
836 covered under the digital version. But on the printed version if we did not pull out
837 and give you that full extent it would appear we did not give you all of the
838 parcels. There is no change to any of the areas; it is just a drafting error. In
839 addition to that, there was one draft error on a specific parcel. It was in the lighter
840 green which represents the RC zoning and it should have been WRC which is the
841 appropriate designation for that parcel, so we corrected that. We want to provide
842 these corrected maps and we did not want you to think they were adopting
843 something different than what the Planning Commission had already
844 recommended. We will present these to the County Council and have them swap
845 out the maps. Do you want to make a recommendation?
846

847 **Commissioner Sullivan moved to accept amended Bill 1376 paper maps that**
848 **are for the purposes of correcting a drafting error; Commissioner Fischer**
849 **seconded the motion. The motion carried unanimously.**
850

851 **8. WorkSessions**

852

- 853 a. A work session was held following the Planning Commission Meeting on
854 December 7, 2017 to review NextStep190 Module 3. Additional work sessions were
855 scheduled for December 14th and December 19th, 2017 to review Modules 1 and 2.
856

857 **9. Commission Matters**

858

- 859 **10. Adjournment**—Commissioner Boicourt adjourned the Planning Commission meeting at
860 2:57 p.m.
861
862